

**IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL.**

Writ Petition No. 119 (S/S) 2002
(Old no. 37705/94)

Sri Jaya Nand Kharakwal S/o Sri Chitramani,
Resident of Lower Kalabst, Kotdwar,
District Pauri Garhwal. Petitioner.

Versus

1. Secretary (Education) State of U.P., Lucknow,
2. Director of Education (Secondary),
Education Directorate, U.P. at Lucknow,
3. Chief Accounts Officer, Director of Education,
U.P., At Allahabad. Respondents.

Sri Sudhanshu Dhulia, learned Sr. Counsel for the petitioner,
Smt. Beena Pandey, learned Standing Counsel for the State of U.P..

Hon'ble M.M. Ghildiyal, J.

Heard Sri Rahul Cansal, Adv. holding brief of Sri Sudhanshu Dhulia, learned Senior Counsel for the petitioner and Smt. Beena Pandey, learned Standing Counsel for the State of U.P. / respondents.

By means of this writ petition, the petitioner has prayed for the following reliefs:-

- i. A writ, order or direction in the nature of mandamus commanding the respondents to pay full and final gratuity and pension to the petitioner with immediate effort,
- ii. To issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 14.12.1993 filed as annexure-1 passed by the respondents no. 1, or

- iii. To issue any other writ, order or direction at this Hon'ble Court may deem fit and proper under the facts and circumstances of the case,
- iv. Award the costs of the writ petition to the petitioner.

The stand of the petitioner is that he was appointed as Principal in the Higher Secondary School, at Akhleshwar, district Pauri Garhwal in July 1964 and was promoted to the post of District Inspector of Schools in the year 1990. The petitioner retired from service on 30.11.1993. Since, the petitioner has not been paid his post retirement benefits, he was constrained to file writ petition before Allahabad High Court in the year 1994.

The Allahabad High court on 29.11.1994, passed order directing the petitioner to make representation before the Secretary (Education) State of U.P., Lucknow/ respondent no. 1, who shall dispose of the same by a speaking order as to why the petitioner should not to be paid the retirement benefits including pension and if he finds the petitioner is entitled to such relief he shall forward the papers for payment to concerned authority immediately.

Learned counsel for the petitioner has submitted that he is still getting provisional pension and has yet not received other post retirement benefits. The post retirement benefits of petitioner were stopped, as mentioned in the counter affidavit filed by the State of U.P. on 10.05.1995 stating therein that the retirement benefits are not being paid in view of the orders of Joint Secretary, Govt. of U.P. dated 14th December 1993.

Perusal of the aforesaid order, it reveals that some disciplinary proceeding were contemplated against the petitioner and the Govt. has decided not to make payment of pension to the petitioner. This order was passed on 14th December 1993. The petitioner was retired from service on 30.11.1993. More than 13 years have passed, no final order, according to the learned counsel for the petitioner, is passed till date and he has not been paid retiral benefits. The right of retired employee to receive pension cannot be withheld for an indefinite period. In these circumstances, I deem it fit and proper to dispose of the writ petition with a direction to Secretary (Education), State of U.P. to pass final order in the matter initiated against the petitioner, and make payment of retiral dues to the petitioner for which he is entitled within a period of two months from the date of production of certified copy of this order.

With these directions, the writ petition is finally disposed of .No order as to cost.

(M.M. Ghilidyal, J.)

March 7, 2007:

NCM: